

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 22-CV-22538-ALTMAN/REID

DOMINIK KARNAS, *et al.*,

Plaintiffs,

v.

MARK CUBAN, *et al.*,

Defendants.

/

JOINT STATUS REPORT

The Parties are very appreciative to the Court for the Status Conference on May 6, 2024, and are pleased to present the proposed resolutions to streamline this matter. The Parties request a stay of all deadlines in the Amended Scheduling Order (ECF No. 221) and request these dates be revisited during a September 23, 2024 Status Conference. *See* Court's May 7, 2024, Order (ECF No. 282). The reasons for this proposed brief stay include: (1) the Court updated the Parties, that it would take some time to issue Orders on the pending: (a) Motion to Dismiss, and (b) Motion for Class Certification, and (2) the Parties are currently seeking discovery directly from Voyager. This stay would not impact the Parties' ability to obtain discovery directly from Voyager.

1. Listening to the Court's guidance at the Status Conference, the Parties met and resolved all of the pending matters as follows:

- a. Plaintiffs withdraw their Motion for Reconsideration (ECF No. 269);
- b. The Parties resolved all issues related to redactions of the Sponsorship Agreement (ECF No. 256-26) and Email Exhibit (ECF No. 256-43). The Parties attach as **Exhibits 1** and **Exhibit 2** the proposed Redacted versions, which are now publicly available. As the

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Parties have reached this proposed agreement, the Parties respectfully request the Court withdraw the May 13, 2024 deadline for additional briefing (*see* ECF No. 282 ¶ 2);

c. Plaintiffs withdraw Motion for Leave to File Unredacted Reply (ECF No. 277).

d. The Parties seek to stay all pending motions, briefing, appeal, attorneys' fee requests pursuant to L.R. 7.3, and hearings related to Magistrate Judge Reid's April 15, 2024 Sealed Order (ECF Nos. 259, 273), Defendants' March 22, 2024 motion (ECF No. 246), and Plaintiffs' May 1st email to Judge Reid (tentatively set for May 22, 2024); and

e. The Parties request to vacate the Court's Nov. 19, 2023 Order Scheduling Mediation (ECF No. 199). The Parties will revisit Mediation at the September Status Conference.

* * *

In accordance with the Court's May 7, 2024 Order [ECF No. 282], Defendants submit the following Objections to Plaintiffs' Motion for Preliminary Approval of First Tranche of Settlements, Provisional Certification of Proposed Settlement Class, etc., ("Plaintiffs' Motion") [ECF No. 279], and state:

2. While Defendants take no position as to whether a settlement class can be certified pursuant to Federal Rule of Civil Procedure 23(e) in connection with Plaintiffs' proposed settlements with other defendants, Defendants disagree with, object to, and contest the representation in the very first sentence of Plaintiffs' Motion that the "Voyager collapse, and resulting bankruptcy, resulted in over \$3 billion dollars in losses for Class Members who purchased unregistered securities in the form of VGX tokens and the Voyager interest bearing accounts ('EPAs')." ECF No. 279 at 2.

3. Additionally, Defendants object to the certification of any class other than a settlement class, certified pursuant to Federal Rule of Civil Procedure 23(e). In particular, Defendants object to a proposed class of “all persons or entities in the United States who, from October 23, 2019, purchased or enrolled in an EPA or VGX Tokens.” ECF No. 279 at 2, 5 (“All persons or entities in the United States who, from October 23, 2019 to the date of preliminary approval, purchased or enrolled in an EPA or VGX Tokens.”). Defendants should not be bound by any definition of the “class” involved in the Plaintiffs’ proposed settlements.

4. The Defendants further object to Plaintiffs using their subject Motion as a vehicle to reargue their separate, independent, and fully briefed pending Motion to Certify Class. *See* ECF Nos. 231, 254, 265, 276.

5. For all the reasons stated in Defendants’ Amended Response in Opposition to the Plaintiffs’ Motion to Certify Nationwide Issues Classes, Pursuant to Federal Rules 23(a), 23(b)(3), and 23(c)(4), certification of a class on any issue related to the merits of Plaintiffs’ claims is improper. *See* ECF No. 265. Defendants contend that the issuance of a settlement class, pursuant to Federal Rule of Civil Procedure 23(e) has no precedential effect on the pending issue of whether class certification for purposes of adjudicating the merits is appropriate.

6. Lastly, if the Court wants any legal briefing on the Objections, Defendants will provide same upon the Court’s request.

Dated: May 9, 2024

Respectfully submitted,

*Attorneys for Defendants Mark Cuban and
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CERTIFICATE OF SERVICE

I hereby certify that on May 9, 2024, the foregoing document was electronically filed with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record via the Court's CM/ECF which will send notification of such filing to all attorneys of record.

/s/ Christopher E. Knight
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